IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

YVETTE OLIVER,	§	
	§	
Plaintiff,	§	
	§	NO. 4:16cv3049
vs.	§	
	§	JURY TRIAL DEMANDED
MARMAXX OPERATING CORP.,	§	
	§	
Defendant.	§	

COMPLAINT

Plaintiff Yvette Oliver files this Complaint against Defendant Marmaxx Operating Corp.

Parties

1. Plaintiff Yvette Oliver is an individual residing in Texas.

2. Defendant Marmaxx Operating Corp. is a Delaware corporation with its principal place of business in Framingham, Massachusetts. Marmaxx may be served with process through its registered agent, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

Jurisdiction and Venue

3. The Court has federal question jurisdiction over this case because the case arises under 42 U.S.C. § 1981.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b) because Plaintiff resides in this District and because a substantial part of the events or omissions giving rise to the claim occurred in this District.

Claim for Relief

3. Marmaxx does business as Marshalls and T.J. Maxx.

4. Ms. Oliver worked as a part-time cashier at Marshalls from October 2013 to October 2014. Ms. Oliver was promised a promotion to a supervisory position around March 2014, but the promotion never materialized.

5. Ms. Oliver reported to Marshalls that her supervisor was engaging in racial discrimination against black customers. Specifically, her supervisor told black customers that they could not exchange merchandise that they had purchased, while she readily took exchanges from white customers. This conduct violated 42 U.S.C. § 1981, in that Ms. Oliver's supervisor was denying black customers the same contractual rights that were given to white customers. Ms. Oliver reported this to a floor manager and to the store manager.

6. After Ms. Oliver reported this conduct, Marshalls retaliated against her in several ways. Instead of working as a cashier, she was moved to the warehouse, where she had to work by herself performing manual labor. Because she was alone during late night hours, she was often frightened for her safety. In addition, her hours were cut, and she was sometimes taken off the schedule.

7. Ms. Oliver complained about this retaliation to several managers, including the store manager. The store manager told Ms. Oliver that he did not want her working together with her former supervisor. In other words, Ms. Oliver was moved to a less desirable position with fewer hours because she had complained about her supervisor's behavior. After this conversation, Ms. Oliver was sometimes called to the front to perform cashier duties when needed, and she was sometimes moved to other departments.

However, she was never restored to her position as a cashier, and she was often assigned to work in the warehouse.

8. Ms. Oliver continued to protest the retaliation. The store manager refused to listen to her. In fact, on one occasion, he scheduled a meeting with her, missed it, and then did not reschedule it.

9. Around this time, Marshalls began to take steps toward terminating Ms. Oliver. She was sent to get coffee for the managers, and then was written up for doing so. She gave a letter to the store manager protesting this treatment, but he told her that he was tearing it up. The store manager then ordered the floor manager to make a notation that Ms. Oliver had refused to sign her write up, which was not true. The floor manager refused to do so.

10. At this point, Ms. Oliver had been moved into a less desirable position that was often frightening, had seen her hours cut, and could see that Marshalls was fabricating a case for terminating her. These actions would dissuade a reasonable employee from reporting racial discrimination against customers. Ms. Oliver finally resigned her job in October 2014, but in reality this was a constructive discharge.

11. All conditions precedent have been performed or have occurred.

12. Marmaxx violated 42 U.S.C. § 1981 by retaliating against Ms. Oliver for opposing racial discrimination against customers. Ms. Oliver is entitled to recover her back pay, front pay (or alternatively reinstatement), and compensatory damages, as well as her attorneys' fees, pre-and post-judgment interest as provided by law, and all costs of court.

Plaintiff requests that Defendant be cited to appear and answer, and that on final hearing the Court award the following relief to Plaintiff and against Defendant:

(a) actual damages, including back pay, front pay (or alternatively reinstatement), and compensatory damages;

(b) reasonable attorneys' fees;

(c) pre- and post-judgment interest as provided by law;

(d) all costs of court; and

(e) any other relief to which Plaintiff may be entitled.

Respectfully submitted,

/s/ David C. Holmes
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